



January 16, 2009

SENATE BILL No. 52

DIGEST OF SB 52 (Updated January 14, 2009 2:31 pm - DI yl)

Citations Affected: IC 12-7; IC 12-15.

Synopsis: Disproportionate share mental health funding. Provides that community mental health centers are eligible for disproportionate share payments of at least \$20,000,000. Amends and repeals provisions to eliminate obsolete provisions applicable to disproportionate share payments.

Effective: Upon passage.

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January 7, 2009, read first time and referred to Committee on Rules and Legislative Procedure.
January 15, 2009, amended; reassigned to Committee on Appropriations.

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SB 52—LS 6077/DI 13+



January 16, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 52

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 12-15-16-6 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) ~~As used in~~
3 ~~this section, "low income utilization rate" refers to the low income~~
4 ~~utilization rate described in section 3 of this chapter.~~

5 (b) ~~Hospitals that qualify for basic disproportionate share under~~
6 ~~section 1(a) of this chapter shall receive disproportionate share~~
7 ~~payments as follows:~~

8 (1) ~~For the state fiscal year ending June 30, 1999, a pool not~~
9 ~~exceeding twenty-one million dollars (\$21,000,000) shall be~~
10 ~~distributed to all hospitals licensed under IC 16-21 that qualify~~
11 ~~under section 1(a)(1) of this chapter. The funds in the pool must~~
12 ~~be distributed to qualifying hospitals in proportion to each~~
13 ~~hospital's Medicaid day utilization rate and Medicaid discharges,~~
14 ~~as determined based on data from the most recent audited cost~~
15 ~~report on file with the office. Any funds remaining in the pool~~
16 ~~referred to in this subdivision following distribution to all~~
17 ~~qualifying hospitals shall be transferred to the pool distributed~~

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under subdivision (3).

(2) Hospitals licensed under IC 16-21 that qualify under both section 1(a)(1) and 1(a)(2) of this chapter shall receive a disproportionate share payment in accordance with subdivision (1).

(3) For the state fiscal year ending June 30, 1999, a pool not exceeding five million dollars (\$5,000,000), subject to adjustment by the transfer of any funds remaining in the pool referred to in subdivision (1), following distribution to all qualifying hospitals, shall be distributed to all hospitals licensed under IC 16-21 that:

- (A) qualify under section 1(a)(1) or 1(a)(2) of this chapter; and
- (B) have at least twenty-five thousand (25,000) Medicaid inpatient days per year, based on data from each hospital's Medicaid cost report for the fiscal year ended during state fiscal year 1996.

The funds in the pool must be distributed to qualifying hospitals in proportion to each hospital's Medicaid day utilization rate and total Medicaid patient days, as determined based on data from the most recent audited cost report on file with the office. Payments under this subdivision are in place of the payments made under subdivisions (1) and (2).

(c) Other Institutions **other than hospitals** that qualify as disproportionate share providers under section 1 of this chapter, in each state fiscal year, shall receive disproportionate share payments as follows:

(1) For each of the state fiscal years ending after June 30, 1995, a pool not exceeding two million dollars (\$2,000,000) shall be distributed to all private psychiatric institutions licensed under IC 12-25 that qualify under section 1(a)(1) or 1(a)(2) of this chapter. The funds in the pool must be distributed to the qualifying institutions in proportion to each institution's Medicaid day utilization rate as determined based on data from the most recent audited cost report on file with the office.

(2) For each state fiscal year after June 30, 2009, a pool of at least twenty million dollars (\$20,000,000) shall be distributed to all community mental health centers that qualify under section 1(c) of this chapter. The office shall exercise its best efforts to obtain any necessary approvals of an amended state plan for medical assistance that permits the distribution required by this subdivision.

(2) (3) A pool not exceeding one hundred ninety-one million dollars (\$191,000,000) for all state fiscal years ending after June

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30, 1995, shall be distributed to all state mental health institutions under IC 12-24-1-3 that qualify under either section 1(a)(1) or 1(a)(2) of this chapter. The funds in the pool must be distributed to each qualifying institution in proportion to each institution's low income utilization rate, as determined based on the most recent data on file with the office. **The pool established under this subdivision shall not reduce the pool established under subdivision (2) to less than twenty million dollars (\$20,000,000).**

(d) Disproportionate share payments described in this section shall be made on an interim basis throughout the year, as provided by the office.

SECTION 2. IC 12-15-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A disproportionate share payment shall be made to:

- (1) a hospital licensed under IC 16-21;
- (2) a state mental health institution under IC 12-24-1-3; ~~and~~
- (3) a private psychiatric institution licensed under IC 12-25; ~~and~~
- (4) a community mental health center described in IC 12-29-2-1;**

that serves a disproportionate share of Medicaid recipients and other low income patients as determined under IC 12-15-16-1. However, a provider may not be defined as a disproportionate share provider under IC 12-15-16-1 unless the provider has a Medicaid inpatient utilization rate (as defined in 42 U.S.C. 1396r-4(b)(2)) of at least one percent (1%).

SECTION 3. IC 12-15-18-5.1, AS AMENDED BY P.L.123-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) For state fiscal years ending on or after June 30, 1998, the trustees and each municipal health and hospital corporation established under IC 16-22-8-6 are authorized to make intergovernmental transfers to the Medicaid indigent care trust fund in amounts to be determined jointly by the office and the trustees, and the office and each municipal health and hospital corporation.

(b) The treasurer of state shall annually transfer from appropriations made for the division of mental health and addiction sufficient money to provide the state's share of payments under ~~IC 12-15-16-6(c)(2):~~ **IC 12-15-16-6(3).**

(c) The office shall coordinate the transfers from the trustees and each municipal health and hospital corporation established under IC 16-22-8-6 so that the aggregate intergovernmental transfers, when combined with federal matching funds:

- (1) produce payments to each hospital licensed under IC 16-21

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that qualifies as a disproportionate share provider under IC 12-15-16-1(a); and

(2) both individually and in the aggregate do not exceed limits prescribed by the federal Centers for Medicare and Medicaid Services.

The trustees and a municipal health and hospital corporation are not required to make intergovernmental transfers under this section. The trustees and a municipal health and hospital corporation may make additional transfers to the Medicaid indigent care trust fund to the extent necessary to make additional payments from the Medicaid indigent care trust fund apply to a prior federal fiscal year as provided in ~~IC 12-15-19-1(b)~~. **IC 12-15-19-1.**

(d) A municipal disproportionate share provider (as defined in IC 12-15-16-1) shall transfer to the Medicaid indigent care trust fund an amount determined jointly by the office and the municipal disproportionate share provider. A municipal disproportionate share provider is not required to make intergovernmental transfers under this section. A municipal disproportionate share provider may make additional transfers to the Medicaid indigent care trust fund to the extent necessary to make additional payments from the Medicaid indigent care trust fund apply to a prior federal fiscal year as provided in ~~IC 12-15-19-1(b)~~. **IC 12-15-19-1.**

(e) A county making a payment under

(1) ~~IC 12-29-1-7(b) before January 1, 2004; or~~

(2) IC 12-29-2-20(d) ~~after December 31, 2003;~~

or from other county sources to a community mental health center qualifying as a community mental health center disproportionate share provider shall certify that the payment represents expenditures that are eligible for federal financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county in making this certification.

SECTION 4. IC 12-15-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) ~~For the state fiscal years ending on June 30, 1998, and June 30, 1999, the office shall develop an enhanced disproportionate share payment methodology that ensures that each enhanced disproportionate share provider receives total disproportionate share payments that do not exceed its hospital specific limit specified in subsection (c). The methodology developed by the office shall ensure that hospitals operated by or affiliated with the governmental entities described in IC 12-15-18-5.1(a) receive, to the extent practicable, disproportionate share payments equal to their hospital specific limits. The funds shall~~

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be distributed to qualifying hospitals in proportion to each qualifying hospital's percentage of the total net hospital specific limits of all qualifying hospitals. A hospital's net hospital specific limit for state fiscal years ending on or before June 30, 1999, is determined under STEP THREE of the following formula:

STEP ONE: Determine the hospital's hospital specific limit under subsection (c):

STEP TWO: Subtract basic disproportionate share payments received by the hospital under IC 12-15-16-6 from the amount determined under STEP ONE.

STEP THREE: Subtract intergovernmental transfers paid by or on behalf of the hospital from the amount determined under STEP TWO.

(b) The office shall include a provision in each amendment to the state plan regarding disproportionate share payments, municipal disproportionate share payments, and community mental health center disproportionate share payments that the office submits to the federal Centers for Medicare and Medicaid Services that, as provided in 42 CFR 447.297(d)(3), allows the state to make additional disproportionate share expenditures, municipal disproportionate share expenditures, and community mental health center disproportionate share expenditures after the end of each federal fiscal year that relate back to a prior federal fiscal year. Each eligible hospital or community mental health center may receive an additional disproportionate share adjustment if:

(1) additional intergovernmental transfers or certifications are made as authorized under IC 12-15-18-5.1; and

(2) the total disproportionate share payments to:

(A) each individual hospital; and

(B) all qualifying hospitals in the aggregate;

do not exceed the limits provided by federal law and regulation.

(c) For state fiscal years ending on or before June 30, 1999, total basic and enhanced disproportionate share payments to a hospital under this chapter and IC 12-15-16 shall not exceed the hospital specific limit provided under 42 U.S.C. 1396r-4(g). The hospital specific limit for state fiscal years ending on or before June 30, 1999, shall be determined by the office taking into account any data provided by each hospital for each hospital's most recent fiscal year (or in cases where a change in fiscal year causes the most recent fiscal period to be less than twelve (12) months, twelve (12) months of data ending at the end of the most recent fiscal year) as certified to the office by:

(1) an independent certified public accounting firm if the hospital

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1 is a hospital licensed under IC 16-21 that qualifies under
 2 IC 12-15-16-1(a); or

3 (2) the budget agency if the hospital is a state mental health
 4 institution listed under IC 12-24-1-3 that qualifies under either
 5 IC 12-15-16-1(a)(1) or IC 12-15-16-1(a)(2);

6 in accordance with this subsection and federal laws, regulations, and
 7 guidelines. The hospital specific limit for state fiscal years ending after
 8 June 30, 1999, shall be determined by the office using the methodology
 9 described in section 2.1(b) of this chapter.

10 SECTION 5. IC 12-15-19-8 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A provider
 12 that qualifies as a municipal disproportionate share provider under
 13 IC 12-15-16-1 shall receive a disproportionate share adjustment,
 14 subject to the provider's hospital specific limits described in subsection
 15 (b), as follows:

16 (1) For each state fiscal year ending on or after June 30, 1998, an
 17 amount shall be distributed to each provider qualifying as a
 18 municipal disproportionate share provider under IC 12-15-16-1.
 19 The total amount distributed shall not exceed the sum of all
 20 hospital specific limits for all qualifying providers.

21 (2) For each municipal disproportionate share provider qualifying
 22 under IC 12-15-16-1 to receive disproportionate share payments,
 23 the amount in subdivision (1) shall be reduced by the amount of
 24 disproportionate share payments received by the provider under
 25 ~~IC 12-15-16-6~~ or sections 1 or 2.1 of this chapter. The office shall
 26 develop a disproportionate share provider payment methodology
 27 that ensures that each municipal disproportionate share provider
 28 receives disproportionate share payments that do not exceed the
 29 provider's hospital specific limit specified in subsection (b). The
 30 methodology developed by the office shall ensure that a
 31 municipal disproportionate share provider receives, to the extent
 32 possible, disproportionate share payments that, when combined
 33 with any other disproportionate share payments owed to the
 34 provider, equals the provider's hospital specific limits.

35 (b) Total disproportionate share payments to a **provider hospital**
 36 under this chapter ~~and IC 12-15-16~~ shall not exceed the hospital
 37 specific limit provided under 42 U.S.C. 1396r-4(g). ~~The hospital~~
 38 ~~specific limit for state fiscal years ending on or before June 30, 1999;~~
 39 ~~shall be determined by the office taking into account data provided by~~
 40 ~~each hospital for the hospital's most recent fiscal year or, if a change in~~
 41 ~~fiscal year causes the most recent fiscal period to be less than twelve~~
 42 ~~(12) months; twelve (12) months of data compiled to the end of the~~

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provider's fiscal year that ends within the most recent state fiscal year, as certified to the office by an independent certified public accounting firm. The hospital specific limit for all state fiscal years ending on or after June 30, 2000, shall be determined by the office taking into account data provided by each hospital that is deemed reliable by the office based on a system of periodic audits, the use of trending factors, and an appropriate base year determined by the office. The office may require independent certification of data provided by a hospital to determine the hospital's hospital specific limit.

(c) For each of the state fiscal years:

(1) beginning July 1, 1998; and ending June 30, 1999; and

(2) beginning July 1, 1999; and ending June 30, 2000;

the total municipal disproportionate share payments available under this section to qualifying municipal disproportionate share providers is twenty-two million dollars (\$22,000,000).

SECTION 6. IC 12-15-19-10, AS AMENDED BY P.L.2-2005, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. For state fiscal years beginning after June 30, 2000; The state shall pay providers as follows:

(1) The state shall make municipal disproportionate share provider payments to providers qualifying under IC 12-15-16-1(b) until the state exceeds the state disproportionate share allocation (as defined in 42 U.S.C. 1396r-4(f)(2)).

(2) After the state makes all payments under subdivision (1), if the state fails to exceed the state disproportionate share allocation (as defined in 42 U.S.C. 1396r-4(f)(2)), the state shall make disproportionate share provider payments to providers qualifying under IC 12-15-16-1(a) and IC 12-15-16-1(c).

(3) After the state makes all payments under subdivision (2); if the state fails to exceed the state disproportionate share allocation (as defined in 42 U.S.C. 1396r-4(f)(2)); or the state limit on disproportionate share expenditures for institutions for mental diseases (as defined in 42 U.S.C. 1396r-4(h)); the state shall make community mental health center disproportionate share provider payments to providers qualifying under IC 12-15-16-1(c).

SECTION 7. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 12-7-2-126.5; IC 12-7-2-127.5.

SECTION 8. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 52, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Appropriations.

(Reference is to SB 52 as introduced.)

LONG, Chairperson

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